

STATE LANDS COMMISSION

TRANSCRIPTS

OCTOBER 29, 1990

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**CERTIFIED
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BEFORE THE STATE LANDS COMMISSION
OF THE
STATE OF CALIFORNIA

IN THE MATTER OF)
)
MEETING OF THE)
STATE LANDS COMMISSION ;
_____)

Public Hearing on
Agenda Items No. 34,
No. 36, and No. 40

TRANSCRIPT OF PROCEEDINGS

October 29, 1990

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1 BEFORE THE STATE LANDS COMMISSION

2 Los Angeles, California

3 October 29, 1990

4

5 -- P R O C E E D I N G S --

6

7 CHAIR TUCKER: Good afternoon. This is the State
8 Lands Commission. We'll start our meeting with the approval of
9 the minutes of the previous meeting and then I'll explain
10 briefly the procedures we're going to follow this afternoon for
11 everybody's benefit.

12 DEPUTY COMMISSIONER STANCELL: I move the minutes
13 of the last meeting.

14 DEPUTY COMMISSIONER MANNING: Second.

15 CHAIR TUCKER: Okay, minutes are approved.

16 Let me just briefly explain the procedure we'll
17 follow. If anybody would like to speak on any of the items,
18 we'd appreciate it if you would fill out a little form that we
19 have up here -- it looks like this-- so that way I know who,
20 and will be calling upon you.

21 We have a Consent Calendar and normally we'll
22 stick up the Consent Calendar as an entire calendar without
23 discussion of any of the particular items, so if you are here
24 on any item that's on the Consent Calendar, you should make
25 sure and let us know and we'll take it off the calendar so you

1 can have an opportunity to discuss it.

2 This afternoon, according to the procedures that
3 govern the Commission, just Mr. Stancell and Mr. Manning will
4 be voting. So that's why there will be just two votes on each
5 item.

6 Okay, does anybody have anything to say about the
7 Consent Calendar, while we're off-taking items under C01, Items
8 N and O, Item C11 and Item C13, so those items are taken off
9 the Consent Calendar. With those exceptions --

10 MR. WARREN: Mr. Chairman?

11 CHAIR TUCKER: Yes.

12 MR. WARREN: Before you act on the -- take a vote
13 on the Consent Calendar, I'd just like to make the statement
14 for the record that Items 17, 18, 19, 20, 21, and 22 all
15 pertain to permits for dredging and deposition of dredged
16 spoils.

17 Of those six, Items 17, 20, 21, and 22 provide for
18 deposition at in-bay sites, four of which staff recommends a 25
19 percent per cubic yard deposition fee.

20 Inasmuch as this policy has been requested to be
21 reviewed by the Bay Planning Coalition, it was agreed by me
22 with the Coalition, with the consent of the applicants
23 themselves, that the mitigation fee would be collected but that
24 it would be held in trust in the event the Bay Planning
25 Coalition could convince the Commission to abandon its present

1 policy.

2 CHAIR TUCKER: Okay. Mr. Manning moves the
3 Consent Calendar, Mr. Stancell seconds, it's approved.

4 Next we'll go to the regular calendar. The first
5 item up is Item 34. Before I start calling the witnesses, Mr.
6 Warren, do you want to explain to the Commission what is here
7 before the Commission to pick up?

8 MR. WARREN: First off, Mr. Chairman, on the
9 regular calendar, Items 35, 37, 38, and 39 have been pulled.
10 That leaves Items 34 and 36. Item 34 will be presented to you
11 by Mr. Hager and Mr. Collins.

12 DEPUTY ATTORNEY GENERAL HAGER: Item 34 is the
13 product of a settlement of litigation. This litigation
14 involved the responsibility for the removal of deteriorating
15 groins from Las Tunas Beach in Malibu that present a very
16 serious hazard to the public.

17 The Los Angeles County Superior Court directed a
18 settlement, realizing that the continued litigation over the
19 responsibility for the groins would not be productive in the
20 resolution of the litigation's objective, that objective being
21 the removal of the groins.

22 A settlement agreement was entered into by the
23 State; Ticor Title Insurance Company, who was the original
24 permittee of the groins; and about 75 percent of the homeowners
25 along Las Tunas Beach.

1 One of the chief features of the court-approved
2 settlement is allowing the homeowners to replace the groins
3 with eight new groins, and these groins will provide for their
4 homes protection from erosion by the ocean.

5 In order for the homeowners to construct the
6 groins, the Commission would have to issue to them a lease of
7 the tide and submerged lands on which the groins would be
8 located.

9 The Settlement Agreement provides for the
10 Commission to issue a lease within a one-year period which
11 could be extended for up to 90 days. That period as extended
12 expires October 31, Wednesday.

13 The staff in conjunction with Dames & Moore has
14 undertaken the preparation of an EIR which is a necessary
15 prerequisite for the Commission action on the proposal for
16 groin construction.

17 That effort has produced a Final EIR. The matters
18 of the certification of the final and the issue to the settling
19 homeowners of a lease for construction of as many as eight rock
20 groins at Las Tunas Beach is now before you.

21 CHAIR TUCKER: Okay. Anything else?

22 DEPUTY ATTORNEY GENERAL HAGER: If you have any
23 questions, we would be glad to answer.

24 CHAIR TUCKER: So the item that is up for
25 consideration by the Commission is both the certification of

1 the EIR and the granting of the lease.

2 DEPUTY ATTORNEY GENERAL HAGER: Correct.

3 CHAIR TUCKER: We are not today discussing or
4 approving, since it's been previously approved, the settlement
5 itself?

6 DEPUTY ATTORNEY GENERAL HAGER: Exactly.

7 CHAIR TUCKER: Do either one of you have any
8 questions before we begin?

9 (No response)

10 CHAIR TUCKER: Why don't we hear from those people
11 who would be urging the Commission to not certificate the EIR
12 and grant the lease.

13 I can't tell from the forms who is on what side,
14 so I don't know if there are some representatives of those
15 people who are the opponents, or do you prefer that we just
16 take it by who is on top of the list? Anybody want to take
17 responsibility here? No leaders, all followers? Okay.

18 Why don't we start with Fay Singer then.

19 MS. SINGER: Hello there, good afternoon. My name
20 is Fay Singer and I am a homeowner at Las Tunas Beach. The
21 request for this permit arises, as you know, from a settlement
22 agreement negotiated, approved, and desired by three parties;
23 namely Ticor, the owner parties represented by Mr. Dummit, and
24 the State Lands Commission, represented by the Attorney
25 General's office.

1 Therefore, although the applicant of record is Mr.
2 Dummit, in effect all three parties to the agreement are in
3 fact the applicants. This indicates a clear and evident and
4 major conflict of interest on the part of the State Lands
5 Commission acting as both applicant and judge. I believe that
6 significant questions of ethics and legality exist in your
7 ruling on this permit.

8 Within the context of this application, I am
9 primarily concerned over the issue of public safety. The final
10 EIR states that signage will be sufficient, despite the fact
11 that Professor Osborne of the USC Department of Geological
12 Sciences, involved at the draft EIR hearing -- his studies
13 indicate signage cannot be relied upon to control behavior of
14 people at our beaches.

15 Professor Osborne has been studying shallow water
16 diving for L.A. County and Sea Grants for the state of
17 California and the federal government. I would suggest that
18 his might be considered an expert opinion. He indicates that
19 lifeguards should be encouraged in this case, in contrast to
20 the evaluation of the final EIR.

21 My initial question at the hearing of the draft
22 EIR still remains unanswered. Are there any private groin
23 systems without lifeguard supervision in the state of
24 California?

25 The final EIR quotes Ken Jacobson, the Marine

1 Safety Chief, as indicating the city of Newport Beach only bans
2 people from climbing on jetties during quote "dangerous ocean
3 conditions." At that time they are closed by fencing and
4 placing signs at the foot of each jetty. Who is to do this at
5 Las Tunas Beach?

6 Jean Swidle, L.A. County Lifeguard Department,
7 according to the EIR, quote "does not feel jetties generate the
8 majority of accidents, surfboards do." She further says,
9 "Signage is not the usual practice; lifeguards are used to keep
10 people off the jetties."

11 Inconsistent with this testimony, the EIR
12 concludes that a signage program will be sufficient to reduce
13 the potential impact.

14 There are other inconsistencies in this report
15 such as the engineering report indicating rubble mound groins
16 will be the cheapest of the groin systems and the EIR
17 indicating otherwise. I cannot understand the basis for some
18 of the conclusions.

19 I think it's very interesting that this entire
20 lawsuit and Settlement Agreement came about in an attempt by
21 all parties to relieve themselves of the responsibility for
22 liability, and so some homeowners have agreed to assume this
23 liability on the groins in an effort to save their homes from
24 storm damage -- a tradeoff.

25 However, is the State really relieved of this

1 responsibility? The State Lands Commission has been fully
2 advised of the potential dangers to the public caused by this
3 groin project.

4 If they approve this project, aren't they still
5 legally responsible in case of an accident, by virtue of the
6 fact they approved a project dangerous to the public?

7 The fact that the homeowners assume liability on
8 the groins does not relieve the State from the responsibility
9 of granting permits for hazardous projects. I think it can be
10 argued that state agencies owe their constituents a safe
11 environment.

12 Environmental issues seem to be the relevant
13 issues of this decade. I remind you that along with saving the
14 environment, the task of providing a safe environment is of
15 equal importance.

16 I have many other concerns in addition to these.
17 By allowing this project you are allowing eight rubble mound
18 groins to be built in the same position as the previous groins.

19 I'm a homeowner with a groin on and abutting my
20 property, so in effect you are approving constructive
21 condemnation of my property. Over 50 percent of our 30-100t
22 wide lot will consist of a rubble mound groin instead of a
23 sandy beach.

24 We do not need this rubble mound groin for
25 protection of our home. We have been through two major storms

1 with no damage. We have a very good sea wall and an engineered
2 foundation.

3 This project has been planned without not only our
4 approval, but no consultation, advice, or knowledge. A group
5 of homeowners in effect are deciding what they will do on our
6 private property, a classic example of tyranny of the majority.

7 I expect you as my elected representatives to
8 protect my interests. If you don't, who will?

9 Thank you for your time. If you have any
10 questions you want to address to me, I'm happy to answer them.

11 (No response)

12 CHAIR TUCKER: Thank you.

13 Kurt Simon.

14 MR. SIMON: My name is Kurt Simon. I'm a property
15 owner. I've had my place in Tunas Beach for about 20 years.
16 I'm surprised -- you gentlemen are not the Commissioners, are
17 you?

18 CHAIR TUCKER: Yes. We represent the
19 Commissioners.

20 MR. SIMON: But you're not the Commissioners?

21 CHAIR TUCKER: We're their deputies.

22 MR. SIMON: How come the Commissioners aren't
23 here? We were told we would be addressing the Commissioners.

24 CHAIR TUCKER: Right, and you are. This is it.

25 MR. SIMON: Well, something is wrong, because you

1 are the ones responsible for what I want to complain about,
2 that I have a complaint about.

3 CHAIR TUCKER: Right, and we represent the
4 Commissioners and we can vote. And that's what we do and
5 that's how the Commission operates.

6 MR. SIMON: I have the uncomfortable feeling that
7 the State Lands Commissioners don't know what's going on, and I
8 think that it's the staff that keeps them from being informed.

9 I've been waiting for about eight years, ever
10 since this cat-and-mouse game was started by the Commission, to
11 let the Commissioners personally know what's going on. We know
12 what's been going on for over 70 years since Ticor Title
13 Insurance and Trust Company at that time built the groins
14 without a building permit, then later promised to maintain
15 them.

16 For over 60 years they didn't, and the State did
17 nothing about it. Now they finally decide to sue Ticor --
18 better late than never -- but Ticor had long since sold their
19 land and sold it with misleading title policies to boot. That
20 doesn't excuse them from keeping the written agreement and
21 paying for their misdeed.

22 Instead of vigorously prosecuting the guilty
23 insurance giant, the State Lands Commission and their
24 attorneys, in collusion with the defendant Ticor, dragged over
25 82 of them in -- all of the nearby houses into court. People

1 who had nothing to do with Ticor's misdeeds.

2 I have in fact for years attended the court
3 procedures, endlessly dragging on. Others made the mistake of
4 entrusting their fate to attorneys who collected huge fees from
5 liability insurance companies, delaying this simple \$2 million
6 dollar repair job for already eight years.

7 Disgusted, I complained so vigorously that I was
8 finally dismissed from this case, but not before my liability
9 insurance had to pay for the defense of me alone over a quarter
10 of a million dollars in legal fees. And it isn't over yet. I
11 am still involved in about 60 cross-complaints.

12 I don't know if you can realize that something
13 must be wrong. I feel it is. And it isn't only the quarter of
14 a million dollars for my insurance. It has cost me a lot more
15 than money. It has cost me time, aggravation, harassment, and
16 cost me my naive confidence in the judicial process and in the
17 integrity of state government.

18 For all this infamy, you have earned the gratitude
19 of Attorney Benevolent Society for this multi-million dollar
20 bonanza, at the expense of -- well, you know whose.

21 And what you are doing to us is just awful, and
22 what I've mentioned so far isn't all. There is still more
23 skullduggery. In a planned collusion between you and Ticor it
24 was decided to let Ticor off the hook for possibly 30
25 multi-million dollars totally unrelated lawsuits, and other big

1 insurance companies were getting away for a pittance.

2 How can you not only permit such a scandal but
3 promote it? Using the phony Geological Abatement District
4 excuse, there is no geological hazard. You shift the cost of
5 maintenance plus the liability for the groins that are built on
6 State land, on the backs of innocent nearby homeowners.

7 And in order to get these homeowners to sign this
8 atrocious so-called settlement, lies, threats, blackmail, and
9 other dirty tricks were used. I'd be glad to give you details.

10 But it's no use asking the attorney general to
11 look into this seemingly conflict of interest, after all it's
12 his gang you are using, and I may yet have to hire my own
13 investigator to look into this seeming payoff. Meanwhile, you
14 can tell the Commissioners shame on them for what they are
15 doing.

16 CHAIR TUCKER: Okay, thank you.

17 Arnold Graham?

18 MR. GRAHAM: Thank you, gentlemen. My name is
19 Arnold Graham. I represent Mr. and Mrs. Eddie Weitzer,
20 trustees of the Weitzer Family Trust. Mr. and Mrs. Weitzer and
21 the Family Trust are owners of a property in Malibu.

22 I would request that this Commission not view this
23 particular matter in a vacuum, that is, it's related more than
24 just to a simple EIR. The background and history you have some
25 familiarity with, but it involves the State's desire to want to

1 remove some groins, some shrapnel like protrusions existing on
2 the beach at the present time.

3 In order that they were able to do that. they
4 started to compel Ticor to take the responsibility, since Ticor
5 installed it. The State was at some risk in compelling the
6 removal of those groins, that old groin system, so how did they
7 do it? They filed a lawsuit, and somehow, and as we have
8 heard, we've all been kind of encumbered in this process.

9 The State obviously was concerned for its own
10 liability in removing the groins so it desired to shift that,
11 as has been spoken to before. But the necessity for removal of
12 pre-existing groin systems does not compel the conclusion that
13 there needs to be a new groin system. There's no necessity for
14 new construction. There's -- even though someone may want
15 them, it is not compelled.

16 The concepts of the new construction have not been
17 adequately addressed in the EIR. The precise construction
18 methodology has not been addressed; therefore we don't know the
19 conclusions that flow from that.

5
20 We don't know the quantity of fill or other
21 artificial materials that will be required for this particular
22 project, nor do we know the methodology that will be used in
23 implementing or installing those. We don't know the
24 consequences of probable erosion or accretion, both at the site
25 or upcoast or downcoast.

1 That has not been adequately analyzed. There is
2 no data base to allow you to make an informed decision on this
3 application because of the absence of data.

4 We don't know the effect of this proposed
5 construction on the property owners, during construction, after
6 construction, or during the functioning of this proposed groin
7 system.

8 We don't know the impact on traffic. We do know
9 that the Pacific Coast Highway is dramatically affected by
10 traffic at many hours of the day, and Caltrans has indicated
11 that it wants a restriction on any construction activities.

12 The proposed construction time of 20 weeks, if
13 there is a reduction in this time it would be probably expanded
14 to in the range of a year for construction, but this has not
15 been analyzed.

16 The impact on the environment, the impact on the
17 residents, the impact on the community, has not been adequately
18 analyzed by this draft of the EIR, and therefore I don't
19 believe that there is sufficient information for an informed
20 decision to be made by this Commission.

21 The noise factor has not been addressed. The dust
22 factor has not been adequately addressed. The simple nuisance
23 issue has not been addressed. Clearly there is going to be --
24 if this is to go ahead, there is going to be a situation of
25 changed conditions. But we don't know, no one knows, you don't

1 know. I don't know, the environmental assessors do not know
2 what the changed conditions will be because they have not
3 adequately addressed them in the draft of the report that has
4 been presented.

5 Again, one of the fictions in this whole process
6 has been the formation of a Geological Hazard Abatement
7 District, a GHAD to use the acronym. But again, the geological
8 implications haven't been addressed in the draft of the EIR
9 either, so I would request this Commission to ask for some
10 additional data, to get the information so that everyone can
11 make an informed decision in a professional manner into all of
12 those areas which are presently lacking.

13 Thank you.

14 CHAIR TUCKER: Thank you.

15 Nate Stock?

16 MR. STOCK: My name is Nate Stock. I'm a
17 homeowner at Las Tunas Beach. I was part of a group that was
18 headed up to form this district and look into the feasibility
19 of this project, and our committee hired the best possible
20 engineering firms and we feel they did a very superior job, and
21 we're totally in support of this project and hope that you
22 approve it today.

23 CHAIR TUCKER: Thank you.

24 Pepi Kelman?

25 MS. KELMAN: I'm a homeowner on Las Tunas Beach,

1 and I just wated to address some of the good points that were
2 made here today.

3 Regarding Mrs. Singer who spoke about the people
4 being injured or endangered or a hazard, right at this time we
5 are now picking up the pieces of many children who fall on the
6 rocks, on the rubble, they hurt themselves. I've been there 20
7 years. I have assisted. I've called the ambulance.

8 So I feel that the attempt for the new groins to
9 secure a beach would make it less of a hazard. I think that if
10 you have anything that somebody can carelessly climb on at all,
11 they'll climb on it. I've had them climbing on my decks. I've
12 had them, you know, I don't think we can eliminate people from
13 being careless. I think the situation we're trying to create
14 would be safer.

15 There is this issue of liability that keeps coming
16 up. I think if the beach stays as it is we have a tremendous
17 liability, because anyone who gets hurt -- and I think there is
18 a record already of many people injured on the beach, so we
19 have that threat of liability or we have more sand, more beach,
20 and still a threat of liability. I don't think there's going
21 to be any difference. Hopefully it would be better.

22 The other issue as far as the storms that never
23 took any houses, I know of six homes on Las Tunas Beach that
24 are not there today, taken from two different storms -- through
25 homeowners I know personally, so it's not true that we have not

1 lost homes there.

2 Kurt Simon who has been a diligent fighter for all
3 of the causes on the beach is making a very valid point when he
4 talks about the fact that the homeowners in general did not get
5 a fair shake on the way it went.

6 But I have a tendency to go forward instead of
7 backward. I feel that the fact that the whole mess wound up in
8 our hands is at this point not too important. How can we go
9 forward? How can we get a beach back? How can we create a
10 safe situation?

11 So to go backwards and blame Ticor and blame other
12 people does not seem to be constructive any more. It's not
13 what we're here today to talk about.

14 Also, Mr. Graham who spoke about the hazards, the
15 traffic. At each juncture that we are going to come to we are
16 going to have to address all of those problems. No one is
17 going to build groins without addressing those issues such as
18 traffic. We're going to address the construction, it's safety,
19 it's impact on the homeowners. Here are 60 or 70 homeowners --
20 I don't know how many actually, but that number, and 20 or 30
21 that didn't sign that are concerned about traffic, dust,
22 debris, noise.

23 We are fighting with each other when really I
24 think instead of rehashing the issues that have been rehashed
25 and remashed for the last I don't know how many years already,

6
1 and I might add that Kurt has not lived in his home on the
2 beach. I have lived in my home for 20 years, and I think that
3 all the people who do live there now, can't they see this is
4 just taking us backwards as to pointing the fingers at whose
5 fault it is. I am more concerned about how we can go forward.

6 We need your permission to lease that land to make
7 the next move. Maybe still we'll get your permission and
8 something else will not work out, so this is just a beginning,
9 and that's all I wanted to say.

10 CHAIR TUCKER: As I understand it now, if the
11 Commission were to approve -- certify the EIR and approve the
12 lease, then that's the beginning of a process, that does not
13 necessarily indicate that the groins will be built --

14 MS. KELMAN: Correct.

15 CHAIR TUCKER: -- but additional --

16 MS. KELMAN: Places that we have to stop at and
17 solve problems.

18 CHAIR TUCKER: Right, but the Commission's action
19 would ensure that the old groins do get taken out; is that
20 correct?

21 DEPUTY ATTORNEY GENERAL HAGER: That is correct,
22 yes.

23 MS. KELMAN: Thank you.

24 CHAIR TUCKER: Let's give the others an
25 opportunity to speak, and then I'll try and address your

1 question.

2 Jeff Hudson?

3 MR. HUDSON: I'm Jeff Hudson, and I'm a partner at
4 Gibson, Dunn and Crutcher. I'm here on behalf of John Hall and
5 Donna Hudson, two homeowners on Las Tunas Beach.

6 We have many remaining comments on the report, and
7 have summarized some of them in a letter submitted last week.
8 That should be part of the record.

9 The commenting parties raised many serious issues,
10 but the responses in the finalizing addendum treated them as
11 trivialities. It dismisses the 350 comments based on responses
12 averaging three to four lines each. Most of the responses
13 simply miss or refuse to confront the point.

14 Because of all the unresolved questions, today's
15 proposed action is clearly premature. Time limits also make it
16 impossible to go over all the deficiencies and insufficiencies
17 in the report. My focus will be -- my comments will focus
18 primarily on an example of the report's inadequacy, the
19 treatment of visual impacts and alternatives.

20 In various places the report acknowledges that the
21 visual impact will be a significant environmental effect. It
22 says that the uncovered walls of the groins could be seven feet
23 high and a person standing on the shoreline will not be able to
24 see over the groins.

25 Without substantiation the project report then

1 claims, and I'm quoting: "The proposed project is designed to
2 reduce visual impacts to the degree feasible, and still provide
3 required shoreline protection. Reducing the height and/or the
4 length of the groins will reduce this visual impact resulting
5 from the presence of the rock areas; however, groins of reduced
6 size would not effectively provide erosion protection for
7 adjacent homes or to the Pacific Coast Highway.

8 These statements fail to acknowledge the fact that
9 the original groins provided the protection at a greatly
10 reduced size, probably less than half the height and less than
11 10 percent as wide.

12 Also, despite requests by the owners of houses,
13 the treatment of low profile groins in the report remains
14 superficial and misleading. Just what are the project
15 proponents planning to achieve? The report doesn't say
16 anything more specific than a wider beach. How much wider? If
17 you're talking about a beach like Santa Monica or El Segundo
18 then lots of these groins are needed, but if you're talking
19 about a project where the beach needs to be only 10 to 20 yards
20 wider, then it's a very different question. And the one page
21 of text in this thick report dismissing the low profile groins
22 is completely inadequate. The report relies on conclusions not
23 analysis to dismiss operatives that could mitigate what it
24 described as a significant environmental impact.

25 In many instances the report is questionable on

1 many other grounds. There's a great deal of concern and
2 speculation regarding the impact on surfgrass habitats. Indeed
3 it appears that the sole mitigation is to empower the State to
4 decide later on how to restore the surfgrass and to require the
5 homeowners to pay potentially all related costs for that,
6 whether it's technically feasible or not.

7 Let me also add that the surfgrass habitat gets a
8 great deal of respect in the report. The same cannot be said
9 about the human habitat which is impermissible in ways
10 unacceptable for the surfgrass.

11 The finalized report includes a new engineering
12 report that draws the whole project into question by concluding
13 that Las Tunas Beach is not eroding. The State's own lawyer
14 has submitted a letter stating that the methodology of the
15 applicants' engineers, Moffatt & Nichol, is quote "technically
16 questionable," end quote, and concluding that this latest
17 report is quote "most meaningful in this particular situation,"
18 end quote.

19 I emphasize that the State's own position is that
20 the groin system is unnecessary to protect the beach. There is
21 no scientific consensus on the project and the report offers no
22 analysis to reconcile the differences between the experts.
23 With scientific uncertainty and no clear benefits, approval of
24 the project or a finding of overriding considerations cannot be
25 supported.

1 A Statement of Overriding Considerations requires
2 the finding that the benefits of the project outweigh the
3 unavoidable adverse environmental effects. The benefits have
4 only been vaguely described as home protection and a wider
5 beach, but no specifics are given. The material distributed
6 today adds removal of the groins as a benefit, but surely there
7 are less obtrusive ways to do that.

8 The latest scientific report questions whether
9 these changes are necessary at all. The State has consistently
10 said they are not necessary. This project will have very
11 negative environmental effects. It will have barriers to
12 divide the beach into eight separate cells. It will eliminate
13 sand and force walkers off the wet sand and onto dry heavy
14 sand. It will force walkers to confront walls. It will have
15 very serious traffic, noise, and lifestyle impacts during a
16 long construction period. It will have a terrible visual
17 impact. All these adverse effects are presently necessary to
18 satisfy the apparent objectives.

19 Other adverse effects such as surfgrass loss and
20 potential downcoast erosion have uncertain magnitude, and the
21 report says they will be mitigated by imposing on the
22 homeowners whatever cost results. The vague and uncertain
23 benefits of the project are offset by very real costs. The
24 proponents seek to appropriate supervision of costs, and
25 unlimited liability exposure on homeowners. The mitigation

1 measures would add unlimited liability exposure from certain
2 upcoast and downcoast erosion. The report is wrong in stating
3 that these costs are irrelevant.

4 The economic and social effects of the project may
5 be used to determine significance and physical changes caused
6 by the project. For example, if the construction of a new
7 freeway divides the existing community, the construction would
8 be the physical change but the social effect on the community
9 would be the basis for determining whether the effect would be
10 significant.

11 This could be another example. If the
12 construction of a new groin system imposes liabilities on the
13 community and divides the existing beach into eight separate
14 parts, the construction would be the physical change but the
15 economic and social effect on the beach community would be the
16 basis for determining that the effect would be significant.

17 The original EIR addressed socio-economic issues
18 and costs. It was only when the opponents challenged the
19 analysis in this area, that it was finalized in the agreement,
20 and then they asserted that these impacts are irrelevant.

21 The report effectively ignores the costs and
22 liabilities. There is no basis on which to conclude that the
23 benefits, which are unspecified and drawn into question by the
24 report and disputed by the State itself, outweigh the visual
25 impact and the adverse effects.

1 I've had a chance to briefly look at the Statement
2 of Considerations -- or Overriding Considerations handed out a
3 few minutes ago. It offers no meaningful analysis of risks and
4 benefits. Indeed it dismisses several alternatives for
5 eliminating impacts because they are infeasible. Why are they
6 infeasible? Not because they won't work, not because they are
7 technically unsound, not because they cause other problems,
8 instead it's because they aren't feasible because they do not
9 meet the terms of the settlement agreement which calls for
10 eight groins.

11 That is patently absurd reasoning. That cannot be
12 the test for an Environmental Impact Report. This report does
13 not provide support for any of the conclusions the law requires
14 for certification of the report or approval of a project. This
15 report should not be certified and the project should not be
16 approved.

17 Thank you.

18 CHAIR TUCKER: Okay, thank you.

19 Lynn -- and the last name is C-i-c-o-t-t-e.

20 MR. CICOTTE: Cicotte.

21 CHAIR TUCKER: I'm glad I didn't try that.

22 MR. CICOTTE. My name is Lynn Cicotte. I
23 represent Dorothy and Robert Colbert, homeowners, 20-year
24 members on the beach. Obviously you've been in contact with
25 Robert Colbert, he's been quite active in this thing.

1 The problem with the report that you're receiving
2 is that it's unbalanced. In other words what you've got is
3 essentially a one-sided story. The way this -- to appreciate
4 this, what you have to understand is that once the State and
5 Ticor smelled that they could get some kind of a settlement of
6 this deal, what happened was that the courts then caused a
7 closure basically of information to those parties, those
8 homeowners who did not go along with the deal.

9 That way they were able to present a one-sided
10 report without giving to those homeowners who did not have
11 access to this information, the information. That information
12 was constantly hidden from them, and absolutely they were never
13 allowed to take part in any of the developments of the reports.

14 It would have been much better had you had before
15 you the reports not only of those who wish to have this
16 settlement go down but the reports of those who did not want
17 the settlement to go down. As a result, because of the way
18 it's happened, you only see one side. Now you begin to smell
19 that there are problems with that report. They have been
20 presented to you by the other speakers here. But the point is
21 we have matters which are unresolved only because you get one
22 side.

23 The point is here, this beach is not something
24 that's new to the area. This beach has been here for quite a
25 while. The State of California has looked at it for quite a

1 while. The Corps of Engineers has looked at it. The point is
2 all the decisives should have been considered when putting it
3 into this report. There have been independent engineers who
4 have looked at this. They have basically the background and
5 the knowledge to realize what would happen here to the beach,
6 the sand.

7 In the old days before we had all this development
8 going on, you used to be able to get sand as a natural outflow
9 of the rivers and creeks that come along the coast. That sand
10 would come down in natural drifts by the coast and that would
11 naturally replenish the beaches.

12 Development has now cut off the access that we had
13 to sand anymore, and sand becomes a very rare commodity coming
14 down the coast. We have then the question of -- you're looking
15 in this report as to sand that they can put in now, but that
16 sand's going to disappear. That sand is not going to stay
17 there forever because we don't have the replenishment.

18 So therefore, five years from now are we going to
19 have those 200 trucks coming down for a period of months to
20 replenish it? That has not been addressed in here. We don't
21 know whether those groins are going to do anything but to
22 capture sand that has been put there for a period of time.

23 Has the report addressed whether they will be able
24 to keep that sand? Has the report addressed whether down beach
25 there's going to be any sand? They talk about to get groins

1 and get sand to put around them. What sand? We don't have it
2 anymore. That's something we have to appreciate in this world
3 where that is a very rare commodity.

4 These groins are not going to accomplish the
5 purpose. You have had an unbalanced presentation, and to make
6 a decision on that unbalanced presentation would not do service
7 to the offices that you have.

8 Thank you.

9 CHAIR TUCKER: Thank you. Craig Dummit.

10 MR. DUMMIT: Yes, my name is Craig Dummit. I'm
11 the attorney for the homeowners who have signed the agreement,
12 which represents close to or in excess of 80 percent of the
13 homeowners now, sometimes referred to as the "silent majority
14 of Las Tunas Beach."

15 We have with us today, if information or questions
16 to them would be helpful to you, Bob Nathan from Moffatt and
17 Nichol who drew up the engineering plans for the groins and has
18 some renderings; Ray DeWitt from Dames & Moore who was in
19 charge of the Environmental Impact Report, and some of the
20 officers and committee heads of the homeowners, some of whom
21 you've already heard from.

22 I'll keep myself available for issues that might
23 come up and not try to respond to every matter unless you have
24 some questions that you specifically would like responded to.

25 But before I do that there are just three subjects

1 that I could very briefly add some information on which have
2 come up today, and then I'll turn it over to you gentlemen as
3 to whether there are any issues that you would like some
4 information from the applicant, since technically myself and
5 our office is the applicant in this permit process.

6 First in regard to public safety relating to use
7 of the beach after the groins are implemented or construction
8 is finished. This permit does not affect or deal with what
9 public usage will occur, what type of public usage, or in what
10 conditions, whether it be lifeguards, signage, fences that keep
11 swimmers and fishermen from going on the groins or what. That
12 will be the function of the public entity -- usually the State
13 or the County, that makes the decision as to what would be a
14 safe and appropriate public use of this beach and under what
15 conditions.

16 Secondly, whatever project is built will certainly
17 be safer than what is there now, and in fact it was lawsuits
18 arising from injuries caused by the current groins -- which are
19 continuing even this year, that started the whole litigation
20 process.

21 In those lawsuits the State has always been a
22 party, Ticor has always been a party, and the homeowner or
23 homeowners in front of groins where the public was injured have
24 always been a party. So there is existing liability even
25 though some of the homeowners may not fully appreciate that, in

1 the condition of the groins as they currently exist which would
2 be removed.

3 Finally as to whether the groins that are proposed
4 would be safer than the spikes that are there now, obviously
5 they would be. Whether the groins would be a reasonable, safe
6 alternative, I can say that none of the opponents of the
7 project nor our office nor any of the consultants or experts
8 that have worked on this, has ever found or heard of one single
9 lawsuit in the State of California arising from anyone being
10 injured on a groin anywhere in the State.

11 In regard to the issues which were raised or not
12 raised in the Environmental Impact Report, Dames & Moore worked
13 very closely with your State Lands Commission staff, both
14 before preparation commenced and during preparation of the
15 report, to make sure that all issues which the State Lands
16 Commission wanted information on and deemed relevant were
17 covered in the Environmental Impact Report.

18 In addition to that, there was a public hearing in
19 Santa Monica that lasted quite a long time I understand, and
20 many of the same people who address you, addressed the people
21 at that hearing.

22 So there has been an opportunity to submit both
23 written and oral comments and to raise any issue which could or
24 should be raised, and after spending over a quarter of a
25 million dollars in expert consulting fees and engineering fees

1 to come up with the environmental document we have, I would
2 find it surprising and shocking if any issue, regardless of how
3 remote, was not brought up by the opponents or otherwise
4 brought up during the environmental process.

5 Indeed for example, you'll see that this project
6 has been analyzed to the extent of even stating the number of
7 truck trips and their course to the project site, that will
8 occur over the four-month construction process.

9 So every detail has been looked at, and I think
10 what they are really saying is that some of the issues have not
11 been resolved to their satisfaction. Some of the issues
12 weren't resolved to our satisfaction either, but that's part of
13 the give and take of the environmental process.

14 Finally in regard to the visual impacts, the
15 visual impacts should be, at least on a -- realizing it's a
16 subjective situation, not significantly greater than they are
17 now, for the reason that the proposed rock groins will be
18 approximately the same length and approximately the same height
19 as what is there now in regard to the actual structure.

20 The major difference will be instead of replacing
21 the steel with steel, the steel will be replaced with rock, but
22 will go out about the same distance into the ocean and be about
23 the same height within a few feet of what was there 60 years
24 ago and what the community has lived with for 60 years and
25 accepted for 60 years.

1 Let me just say that if that is still an uncertain
2 item, we do have renderings of the profiles of the steel
3 groins, the profiles of the rubble mound groins, and to sum it
4 up it is essentially the same size structure, it's just made of
5 different material.

6 Some people have been misled by the fact that the
7 base of this rock groin is substantial, 30 or 40 feet across
8 the base, but that base is under the sand, as is about 75
9 percent of the steel groins now under the sand. So the height
10 of the groins above the sand and above the water will be
11 essentially the same as it has been now, and that certainly has
12 not caused any divisions in the community or drop of property
13 value or reduction of people's enjoyment of the beach.

14 So with those brief comments, I'll ask you now --
15 or if you want me to address some issues later, if you have any
16 questions you would like me to provide further information on,
17 or any of the consultants that are here.

18 DEPUTY COMMISSIONER STANCELL: There are eight
19 groins now, is that right?

20 MR. DUMMIT: There are currently eight groins, and
21 the -- it's a groin replacement project really.

22 DEPUTY COMMISSIONER STANCELL: Just replacing
23 what's there?

24 MR. DUMMIT: Yeah. It is not only to replace
25 what's there in regard to height and length, but hopefully to

1 put them in at the same place. The present plans have them in
2 the same place as the existing groins; one good reason being
3 that they turned out to be in the engineeringly correct
4 locations.

5 And another matter from our point of view or side
6 that will help you. If we put them in the same location, we
7 can cover the current steel spikes with the rock and save about
8 a half a million dollars of removal costs that we would
9 otherwise incur if we put the new groins in a different
10 location.

11 DEPUTY COMMISSIONER MANNING: The renderings you
12 described are also in the EIR?

13 MR. DUMMIT: Pardon me?

14 DEPUTY COMMISSIONER MANNING: The renderings you
15 just referred to are in the Environmental Impact Report?

16 MR. DUMMIT: Some of them are and some of them are
17 new. The ones that are new are ones that deal with the
18 aesthetic impact concerning the height of the groins, because
19 there was a lot of confusion.

20 Some people I understand thought that these groins
21 would extend 20 feet above the sand for example, and it's to
22 show that given the amount of the groin that is under the sand,
23 as is the present groin, how much of it will be sticking out
24 above the sand and water compared to how much is now with the
25 steel, and it's essentially within a foot or two of the same

1 height.

2 DEPUTY ATTORNEY GENERAL HAGER: May I just make
3 one clarifying point. I don't want any misconception here.
4 The fact that the groins have deteriorated substantially over
5 the years, there's not that much left of them, so what you're
replacing -- if you compare what you have today with what
7 you're going to replace, you're going to have something far
8 more intrusive than what you have today, because it's been
9 deteriorating.

10 CHAIR TUCKER: That's similar to how it started
11 out.

12 DEPUTY ATTORNEY GENERAL HAGER: I don't know how
13 it started out, but I'm just --

14 DEPUTY COMMISSIONER TANCELL: Well, 60 years ago
15 they had groins in there.

16 DEPUTY ATTORNEY GENERAL HAGER: You had a lot more
17 than you have today.

18 MR. DUMMIT: Yes, the comparisons are made
19 comparing the present engineering plans to the permitted plans,
20 as-built plans, for the groins back in 1930 and '32. Indeed
21 some of these groins have actually tipped over and are flat,
22 while others are still sticking up that have the tops of them
23 eroded away to create the spikes that are dangerous.

24 CHAIR TUCKER: One other point. As I understand
25 it, the proposed lease has provisions in it that would allow

1 the location of the groins within 60 feet of the existing
2 groins?

3 MR. DUMMIT: That is correct.

4 CHAIR TUCKER: So the lease itself does not compel
5 the location at a specific point, but within a range.

6 MR. DUMMIT: That's correct. We would have
7 preferred to put them --

8 CHAIR TUCKER: I shouldn't say "compels." It
9 allows, but --

10 MR. DUMMIT: We would have preferred to put them
11 where the existing groins are now, but for costs and legal
12 reasons we may be compelled to move some of them, especially
13 the problem with groin number eight which is technically on
14 Parks and Recreation property.

15 And that's why that provision was put in, because
16 that groin may have to be moved slightly onto private property
17 if we cannot get the permission of Parks and Recreation to put
18 the new groin in the same location as the old one is now.

19 MR. HUDSON: May I please respond on the height
20 issue?

21 CHAIR TUCKER: Why don't -- let's everybody get
22 done here and then make a note to yourself and you can tell us
23 about it then.

24 John Crutchfield?

25 MR. CRUTCHFIELD: Good afternoon, gentlemen. My

1 name is John Crutchfield. I'm here on behalf of Mr. and Mrs.
2 Harrow, Ms. Homer, and Mr. Taves, all of whom are homeowners in
3 the Las Tunas district.

4 A lot of what I had to say has already been said
5 specifically by Mr. Hudson and Mr. Graham. I think the focus
6 on context is important here. The liability issue has been
7 totally overlooked in the final Environmental Impact Report,
8 notwithstanding the fact that it was preliminarily addressed as
9 socio-economic concerns in the initial draft. Obviously it
10 seems to be that they are side-stepping what is a difficult
11 issue.

12 That was, as you might understand, the basis and
13 the thrust of the initial lawsuit was, Who is going to bear the
14 liability? Who is going to be responsible for either removing
15 the existing groins, replacing, whatever needs to be done.

16 The State said Ticor should do it, Ticor said the
17 homeowners should do it, and the homeowners said, you know, we
18 didn't know anything about it. That's the context of this
19 entire lawsuit and why so much money has been expended to date.

20 What has resulted from the Settlement Agreement is
21 that the two principal parties, the State and Ticor, the
22 parties to the original lease, are now seeking to shift all
23 liability to the homeowners for any future construction,
24 whatever it might be. A necessary prerequisite to that
25 shifting of the liability, against the wishes of many of the

1 homeowners and the homeowners I represent, is the issuance of
2 the State lease.

3 Some of the homeowners I represent, for example,
4 would be perfectly content to have the groins as they currently
5 exist simply removed, and no groins be replaced. That would be
6 obviously of no cost -- for new construction, and that was one
7 of the alternatives that was summarily dismissed in the
8 Statement of Overriding Considerations and in the final report.

9 And the reason given, as previously pointed out,
10 had nothing to do with the technological effectiveness or any
11 kind of cost benefit analysis, it simply didn't comport with
12 the terms of the Settlement Agreement; i.e. the parties wishing
13 to shift liability to the homeowners would not be able to do
14 that, and therefore that alternative was dismissed.

15 What we have to look at as you do in legal
16 decisions or as you do in your decisions on a daily basis, is a
17 balancing. One thing that the Environmental Impact Report has
18 given us is a lengthy list of admitted significant adverse
19 environmental effects, and I would address you, gentlemen, to
20 the second page of the initial Environmental Impact Assessment
21 Forms filled out by Mr. Dummit on September 29th of 1989.
22 There are 13 environmental impact assessments listed, to which
23 he answered "yes" to only one of them.

24 Even a cursory review after a review of the Final
25 Environmental Impact Report will reveal at least 8 of the 13

1 should have been checked "yes" or "maybe", and have been borne
2 out as such by the final Environmental Impact Report.

3 So the one thing that is clear is that there are
4 going to be significant adverse environmental effects from this
5 project. What do we balance that against?

6 Well, what you would like to be able to do is
7 balance it against is some sort of scientific or unanimous
8 consent finding that there is erosion going on on the beach and
9 that these groins are necessary to protect from that hazard and
10 that they will be effective in doing so.

11 But as Mr. Hudson points out, in the most recent
12 scientific analysis there is some question as to whether or not
13 this is necessary, number one, and there is some question as to
14 whether it's going to be effective, number two.

15 So without even getting to some of the other
16 adverse effects of downcoast erosion, we're not even sure that
17 the effects that this is designed to prevent even exist; or
18 secondly, that this methodology, with all of its adverse
19 significant environmental effects and its ominous shift of
20 liability to the non-consenting homeowners, is going to
21 accomplish that result.

22 So I respectfully submit it's not a very difficult
23 weighing process to do. You have concrete negative effects and
24 questionable at best positive effects to balance, and in view
25 of the vociferous objections made here by many of the

1 homeowners, I respectfully request that you deny the
2 application for the State lease.

3 Thank you very much.

4 CHAIR TUCKER: Thank you.

5 Carolyn Van Horn?

6 MS. VAN HORN: I'm Carolyn Van Horn. I'm a
7 14-year resident in Malibu, and my interest is PCH, Pacific
8 Coast Highway. And I'm not addressing the liability of this
9 project per se, but the impact of using Pacific Coast Highway
10 for the loading and unloading -- or the unloading of the I
11 guess it's called "rubble," the large boulders onto the sand.

12 My understanding from Caltrans is that the funds
13 that they have had currently and in the past number of years,
14 ten years or so, for repairs and maintenance of the highways in
15 the State has been cut from \$800 million to \$200 million for
16 the next seven years. That's a drastic reduction in the monies
17 that will be available for repairing and maintenance of
18 highways.

19 Pacific Coast Highway is a highway that is used
20 for egress and ingress by not only the residents, but it is
21 really used as a freeway by the commuter traffic from the
22 Valley in the morning and in the evening, so that the further
23 use of heavy trucks on that highway, which will cause
24 deterioration of the road, I think is something that should be
25 seriously considered, that those funds have been drastically

1 cut and they will not be available.

2 Number two, a number of years ago -- I've lived
3 there 14 years, and shortly after I moved out there I believe
4 that the trucks that did travel PCH were banned, and the major
5 reason they were banned on the Pacific Coast Highway was
6 because of the ecological instability of the cliffs.

7 The cliffs on the Pacific Coastline are naturally
8 eroding cliffs, and the pounding and so on of the heavy trucks
9 further caused that erosion. These trucks coming onto the
10 highway for delivery will exacerbate that condition.

11 I noted that the only time that there is a ban of
12 the trucks on Pacific Coast Highway is at what is referred to
13 as "peak traffic hour," from 7:00 to 8:00 in the morning. I
14 mean I know that every place in Southern California is terrible
15 with traffic, but that's not quite accurate. Leaving Point
16 Zuma at the eastern part of Malibu and coming into Santa Monica
17 at 9:00 o'clock in the morning is also peak traffic time. So,
18 you might want to address that particular time slot.

19 Also, with all of the development that is
20 occurring in the last two years, two to three years, along the
21 Pacific Coast Highway in Malibu, there are already many
22 construction trucks coming in and out on PCH which cause a
23 great deal of delay already.

24 Whenever there is any repairing, resurfacing,
25 that's additional delay. And I really caution you -- I

1 remember seeing a necessary closing of a lane, there was only
2 one lane open from near the Civic Center, from Pepperdine down
3 to Webb Way, and it was during the middle of the day and it was
4 only to resurface. There was an ambulance at the top of the
5 hill. It could not get through. And we really don't need
6 that. We only have one way in and out on PCH.

7 So I would just like to ask you to please look and
8 see if there isn't some other way to bring it up. The only way
9 I can think of is by barge. That might be cheaper in the long
10 run when you consider the hazards to the highway.

11 Thanks.

12 DEPUTY COMMISSIONER STANCELL: May I ask you a
13 question?

14 I was just curious about when you were told about
15 the funding status, was that by Caltrans?

16 MS. VAN HORN: Yes, it was.

17 DEPUTY COMMISSIONER STANCELL: When did they tell
18 you that?

19 MS. VAN HORN: I was attending a conference in
20 Dana Point.

21 DEPUTY COMMISSIONER STANCELL: That was when, this
22 year?

23 MS. VAN HORN: Yes, I think it was -- what is
24 this, October? I think it was the -- either the first part of
25 October or the last part of September. It was very recently.

1 DEPUTY COMMISSIONER STANCELL: Very recently?

2 MS. VAN HORN: Yes, and I am getting a letter to
3 that effect. I wanted it today but I don't have it in my hands
4 today.

5 DEPUTY COMMISSIONER STANCELL: Thank you.

6 CHAIR TUCKER: Geary Steffen?

7 MR. STEFFEN: My name is Geary Steffen. I'm a
8 resident of Malibu. I've lived here for 23 years, only the
11 last 10 of those years have been on Las Tunas beach.

10 It's interesting, this entire thing going on now
11 for about almost eight years started over three little
12 lawsuits. People who were jogging on the beach, cut their feet
13 and one day -- I think it was an unemployed actress and she had
14 her face scarred and she couldn't get work and she sued. She
15 got an attorney and they sued the State of California.

16 The State says, Wow, we're being sued; who is
17 liable? And they looked at the records and they found out that
18 these were built 60 years ago and they were built by Ticor
19 Title Insurance and Trust Company. So they were sued and that
20 started the whole thing.

21 The lawyer fees, the attorney fees so far have
22 been probably \$8 or \$10 million dollars, and the three suits
23 combined were less than \$50,000 -- I think \$20-some-odd
24 thousand dollars were actually settled. So we're talking about
25 over a period of all the years of Malibu, say 60, 70, 80 years,

1 we're talking about \$24,000. That \$24,000 cost millions in
2 attorneys' fees and puts us where we are today.

3 If we were to just go on as we are now, we might
4 have a few more cut legs and arms, but it's not a serious
5 thing. I mean, it really isn't.

6 With regard to the traffic, I don't know the
7 number of trucks that it will take to put the sand and the
8 boulders down on that beach, but assuming that 225 trucks is
9 correct, we have two loading spots, so it wouldn't be 225
10 trucks per loading spot, it would be about 112 trucks per
11 loading spot.

12 And if we use the after peak traffic hours from
13 10:00 in the morning and 4:00 in the afternoon, about a five or
14 six hour period there, you're really talking about 12, 15
15 trucks an hour. Even if all 225 of them were there at one
16 time, which is impossible, it would be less input to the basis
17 of where we are in reality. In reality we have 50,000 vehicles
18 a day coming down there. Ten percent of 50,000 divided by one
19 percent is 500; 225 is less than half of one percent of the
20 traffic, so it's not a serious problem.

21 Sand. They say that the sand dumped in there will
22 last, and I think some of it will. I think that knowing that
23 the sand moves in and out is important to you folks. In a
24 three-hour storm we've lost as many as four or five feet of
25 sand. Now we haven't lost that sand, that sand has been taken

1 out by the storm and deposited wherever, and it may come back
2 three weeks later or three months later or whenever.

3 And sometimes we even get a buildup, two feet of
4 sand in an afternoon or evening. That's common, that's the
5 tide and shifting sands in and out. So it isn't that you lose
6 the sand and it never comes back. It does come back. There
7 are sand banks out there, and I think those can all be
8 verified.

9 And lastly, the people who are protesting here
10 today are the minority of a group. In a democratic government
11 we believe 51 percent is what it is. If you voted for Dukakis,
12 just because he didn't win doesn't mean you stop living in
13 America.

14 These people are the minority. More than 65 or 70
15 percent of the people who live on this beach have decided that
16 they would like to have a GHAD. It only requires 51 percent of
17 the vote to have a GHAD, and so it is our intention to go ahead
18 with it and do whatever's necessary.

19 We may never get the job done, but we need your
20 approval to get it started. Thank you very much.

21 CHAIR TUCKER: Thank y u.

22 W. F. Keller?

23 MR. KELLER: Good afternoon. I'm Will Keller and
24 I'm here to speak as an individual resident of Malibu and to
25 provide you with some factual information regarding the traffic

1 considerations, and in no way to comment on the merits of the
2 project. I wrote a letter which apparently did not arrive in
3 time for consideration in preparation of the final EIR, and I'd
4 like to excerpt some of it for you.

5 In order that people could have an opportunity to
6 comment, it should have been publicised throughout the
7 community, but was not. All of us will be impacted as users of
8 the Pacific Coast Highway or as residents along the
9 right-of-way. The possibility of 225 heavy truck round trips
10 per day on PCH represents a significant impact upon the
11 community.

12 I understand that Caltrans has indicated that
13 truck activity on PCH should be restricted to between the hours
14 of 9:00 a.m. and 3:00 p.m. and this would be a bare minimum
15 acceptable because the highway at the vicinity of Topanga Beach
16 operates at a level of service of "F" as late as 10:00 in the
17 morning. As you are aware, that's pretty bad.

18 I also understand that Caltrans omitted mention of
19 the ban on trucks with more than three axels and the weight
20 exceeding 34,000 pounds on PCH between Topanga Canyon on the
21 south and Decker Canyon on the north. That's just about the
22 whole length of Malibu.

23 And the EIR mentions it on page 122 and then
24 indicates that it was for safety reasons. It really wasn't.
25 I've been a resident for 30 years and we lobbied for many years

1 on the basis of safety and got nowhere. And it was not until
2 the big rock slides which occurred, and they then discovered
3 that the vibration from those trucks was contributing to
4 slides, also to damage to the homes along the way.

5 It is critical for you to know that that is the
6 reason and to consider it seriously in what you are doing.
7 Thus, if you allow almost 13,000 heavy truck round trips the
8 entire length of Malibu, it would be counter to the purpose of
9 the ban and could cause a serious and overlooked impact on the
10 environment.

11 The most practical way to mitigate this impact is
12 to require the trucks to approach the project only from the
13 south -- or the east depending on how you want to look at it.

14 I would also urge you to consider the feasibility
15 of delivering the sand and rock directly to the beach via
16 barges, offloading with cranes and totally eliminating the
17 problem.

18 That's the end of the letter, and I need to say
19 that in my hasty review of this green document, which I guess
20 is the final staff recommendations, it's all been ignored. No
21 mention was made of the potential geologic damage to homes on
22 the landslide sites, so I believe you're risking serious
23 litigation, whoever would become the responsible group.

24 Truck activity was only being restricted from 7:00
25 to 8:00 a.m. and 4:00 to 5:00 p.m. I think this is totally

1 unacceptable. Sand flats which could have been readily routed
2 from the east -- I believe they were coming from Hansen Dam, so
3 they could have come over the freeway, Highway 10 down to the
4 Pacific Coast Highway in Santa Monica, in that direction, were
5 intentionally being routed in the other direction so that they
6 would drive the whole length of Malibu.

7 And this in no way mitigates morning peak hour
8 traffic impact, which is from going to the east from the west
9 in Malibu, and I don't understand how they could come up with
10 the logic of doing that. You could make a justification for
11 doing it for half a day in the evening, but not in the morning,
12 it's ridiculous.

13 I therefore urge more sensitivity to the community
14 and its environment from both you and the proponents of the
15 project, and that you at least explore the feasibility of
16 bringing the sand and rock in by barge, and if that's not
17 feasible, to bring the trucks in from the east only between the
18 hours of 9:00 and 3:00.

19 Have you any questions?

20 CHAIR TUCKER: Let me just ask the attorney
21 general something. Who is going to decide about the
22 transportation issues?

23 DEPUTY ATTORNEY GENERAL HAGER: Basically that's
24 Caltrans and it states so in the finding, the EIR finding.

25 CHAIR TUCKER: Okay, so there's still a step that

1 will have to be gone through in terms of a determination by
2 Caltrans that this activity would be safe and consistent with
3 all the standards that they would apply.

4 MR. KELLER: And that's why it's worth a little
5 delay if they would explore these other alternatives, including
6 the barging. It might even save you money. And the one
7 alternative if I recall was mention of bringing the rock in
8 from Catalina rather than offloading it in Long Beach. Perhaps
9 it is feasible, I'm not sure, but it's something worth looking
10 into.

11 CHAIR TUCKER: Well, I'm just saying that if the
12 Commission were to approve the lease today and certify the EIR,
13 that is not a decision as to how and when this transportation
14 will occur.

15 MR. KELLER: Well, the mitigating measures that I
16 referred to are not correct, as it stands, so if you approve
17 those --

18 CHAIR TUCKER: So you think they are insufficient?

19 MR. KELLER: Yeah.

20 CHAIR TUCKER: Thank you.

21 Okay, I have received slips from four people who
22 indicated that they would like to speak if needed, and those
23 are Jackie Carr, Kelly Wimberly, Steve Spina and James Irsfeld.
24 I assume these are all people who would be supporting the
25 certifying of the EIR and the granting of the lease.

1 If any of you would like to speak now, come on up.

2 MS. CARR: My name is Jackie Carr. I am a
3 property owner at Las Tunas Beach. I have lived on that beach
4 in four different residences over the last ten-year period.

5 The statement that the groin height will not be
6 any different to what we have existing today is really not
7 true. Between Budwood Beach and Topanga Canyon Beach we do not
8 have any existing groins that are standing at the height that
9 they were when they were installed.

10 If you walk to Buddwood Beach -- I am five foot,
11 four inches tall and the one groin that is standing at this
12 time I cannot see over. The only way I can get around that
13 groin is by going way out into the water or going on Pacific
14 Coast Highway. We can get through that groin today because the
15 groin is so eroded that there are large gaps in it that we can
16 go through.

17 The way the groins are being installed at this
18 time, one will not be in front of my residence. But if one
19 were to be in front of my residence, I would be here and be on
20 the negative side of this, because I will be walking out of my
21 house and I will be in tunnel vision. There will be eight
22 major groins that are going to be taller than I am.

23 I walk on the beach every day. I will not be able
24 to do this because I will not be able to go on someone's
25 private property, under their house to get around the groin, or

1 to go 200-or-some-odd yards out into the water to get around
2 the groin. So I will not be able to walk, something that I do
3 daily.

4 My other major concern is I'm an animal lover and
5 I can't tell you how many times this year on the beach I've
6 called to have seals picked up from under the house, or injured
7 animals.

8 What happens to a child? How do we get an
9 ambulance down to pick up this injured person? My neighbors
10 have several children; the children are in the water daily. A
11 wave comes and the kids are on a surfboard and it knocks them
12 into these rocks. How do we get these kids out of here? I
13 don't know.

14 My final question is, I have taken a real estate
15 examination. In the State of California any land from wet sand
16 seaward belongs to the State. How did we obtain this
17 liability? I would love to know. Thank you.

18 MR. SPINA: Hi, gentlemen, I'm Steve Spina. I've
19 been a resident on Topanga Las Tunas Beach for 22 years,
20 homeowner for approximately 6.

21 I would just like to ask you gentlemen a question
22 here. I don't know how well versed you are on this particular
23 EIR, but I think you're making a very major decision today. I
24 don't know if you gentlemen are signing this in approval or
25 disapproval, or will it go to the Commissioners. You as the

1 deputies can sign today?

2 CHAIR TUCKER: Yes.

3 MR. SPINA: Okay, let me ask you a question
4 pertaining to the leasing of basically private lands -- or
5 public lands to private entities. Would you know if this is
6 the first case of this type in the State of California?

7 CHAIR TUCKER: Mr. Hight is our legal counsel, he
8 can answer the question.

9 MR. HIGHT: There are a number of other groins
10 located up and down the coast, I believe two of which are
11 leased to homeowners associations.

12 MR. SPINA: So this in fact would not be a
13 precedent-setting decision, this has already occurred?

14 I'd like to bring up one aspect of -- I gave
15 testimony at the Santa Monica hearing about the health and
16 safety problems on the beach, and as Ms. Carr had indicated,
17 what do we do if there is an injury not only to people that are
18 using the beach as a public facility but also to possibly the
19 workmen that will be working on the project, on the groin
20 system?

21 There seems to be no adequate way to transport a
22 person up and down from the north/northwest and south/southeast
23 or off of the beach itself onto the highway to transport to a
24 medical center.

25 I think that should be of ultimate importance not

1 only to Cal OSHA but also for public safety to persons that are
2 using the beach as a public usage. I don't think that was
3 addressed properly. I think that should be one of the main
4 issues before a decision is made regarding the health and
5 safety of the public and workmen in the area.

6 That is all I have to say.

7 CHAIR TUCKER: Thank you.

8 MR. IRSFELD: Mr. Commissioners, I am James
9 Irsfeld. I am a homeowner at the Las Tunas Beach and I am one
10 of the silent majority that Mr. Dummit referred to.

11 I want to make just one point, and it's been said
12 several times today, that the groins or groins of some sort are
13 not necessary and the beach is not eroding. I'm not going to
14 speak from a technical sense, I'm going to speak from what I
15 have seen over the last 16 years. I am a percipient witness.

16 In the late '20s and early '30s I used to go up to
17 Las Flores Beach, which is a couple miles further up the coast,
18 to body surf. And as we went by what is now the scene of Las
19 Tunas Beach, we were absolutely hysteric over the sign boards
20 that appeared and said, Here are lots for sale, buy our lots.
21 The water was lapping on the highway. There was no ground
22 whatever. We didn't laugh so hard later on when those groins
23 went in and beautiful beaches were developed.

24 Now I bought my house down there about 20 years
25 ago, and at that time you could walk from my place clear up to

1 the Moonshadows, which is a couple miles further up the coast,
2 at low tide. Now you're lucky if you can walk a hundred yards
3 in either direction. To say that the beach is not eroding is
4 absolutely ridiculous to anybody who lives there and who has
5 seen the place.

6 So I believe that regardless of all of the nice
7 theoretical doubts that have been cast, we have examples of
8 what did happen when these groins were put in in the '30s. It
9 did replace beach. There's no reason to believe that
10 replacement of groins won't also replace the beach. We know
11 what the place looked like before the groins were put in. I
12 believe it will look like that again if we don't put them in
13 this time.

14 Thank you.

15 CHAIR TUCKER: Anybody else before we return to
16 Mr. Hudson?

17 MS. WIMBERLY: Hello, my name is Kelly Wimberly.
18 I am a resident on Las Tunas Beach. I live there, I don't have
19 a building that I rent as some of the others who have spoken.
20 You have just told us today that you, as representatives of the
21 Commissioners, are able to decide whether to approve or
22 disapprove of this; is that correct?

23 CHAIR TUCKER: We're certifying the EIR and
24 granting the lease, if that's the decision of the Commission.

25 MS. WIMBERLY: Yes, that's correct.

1 CHAIR TUCKER: Those are the two decisions made
2 today.

3 MS. WIMBERLY: Okay, I would like to ask each of
4 you if you have read the draft EIR cover to cover, the final
5 EIR cover to cover, and all the letters that have been written
6 for and against?

7 CHAIR TUCKER: I can tell you that the
8 Commissioners are well briefed on all of the issues in this
9 case. We've spent a lot of time on it. It's come up a number
10 of times, and we are aware of the public hearings that have
11 been held before, the comments that have been made, and all of
12 the views involved in this.

13 MS. WIMBERLY: But is the answer "yes" that you
14 have read the entire EIR, both draft and final and all the
15 comments made?

16 CHAIR TUCKER: I think the answer is the
17 Commission has all of the information that it needs in order to
18 make a decision.

19 MS. WIMBERLY: Okay, but my question is that you
20 are making the decision, and --

21 CHAIR TUCKER: That's right, and I've answered
22 your question, okay?

23 MS. WIMBERLY: Well, actually you haven't, I'm
24 sorry. If you're making a decision, then my question is, Has
25 this been read by each of you?

1 CHAIR TUCKER: That's the answer that you'll have
2 to take.

3 DEPUTY COMMISSIONER STANCELL: Perhaps I can
4 answer your question. I did not read it, but I am relying on
5 the staff of the State Lands Commission to represent to me as a
6 representative of Jess Huff on this Commission all the facts as
7 relates to that particular issue, so that I can make a judgment
8 as to what is proper and appropriate in terms of the
9 recommendation.

10 And that doesn't mean that we did not read just
11 this particular one, I hardly ever read all the EIR's that are
12 related to a particular issue. Because number one, I don't
13 have time to do that. I have other duties that I have to take
14 care of.

15 MS. WIMBERLY: I want to thank you very much for
16 answering the question, because you did answer it, and I think
17 it's a legitimate question. The representatives of the State
18 Lands Commission are the ones that are giving you the
19 information and recommending how to vote, so therefore it is
20 they who are actually voting on this.

21 CHAIR TUCKER: No, that is not correct.

22 DEPUTY COMMISSIONER MANNING: No, that's not true.
23 Let me --

24 CHAIR TUCKER: All of the Commission members have
25 looked independently at the information involved here, and I am

1 sure the decision of each of the Commissioners is based upon an
2 independent review of all of this information. So the idea
3 that it's the staff that's making the decision is incorrect.
4 That is not the case.

5 DEPUTY COMMISSIONER MANNING: Let me speak to that
6 for a second. I represent Lt. Governor McCarthy on this
7 Commission. I have gone through both of these documents here.
8 I am familiar with the comments that most of the people have
9 made here today. I have letters here in opposition, one from
10 Mr. Hudson that I spent some time on the other day. So I don't
11 think you should assume that we haven't spent a lot of time and
12 energy on this, because we have.

13 MS. WIMBERLY: Well, I wasn't assuming. Thank you
14 for answering the question.

15 DEPUTY COMMISSIONER MANNING: And I think that not
16 only do we consider what the staff has told us, we do have our
17 own independent judgment which we use quite often in assessing
18 the information they give us, as well as the environmental
19 documentation, and we consider your comments.

20 MS. WIMBERLY: Okay, good. I'm really glad to
21 hear that, that you have -- at least two of you have read a lot
22 of this and have read all the questions that a lot of us have
23 raised.

24 Because if you have read the draft or the final
25 you know that most of the questions that were raised in the

1 public meeting about the draft were not answered, and that
2 there are so many inconsistencies and inaccuracies in both the
3 draft and the final EIR and the reports that Mr. Dummit has
4 given, that it would take days to address them all, as it took
5 days and days to read all of this information.

6 And you would not approve this draft EIR if you
7 had, as you have said, been so aware of what's been happening
8 here.

9 Thank you.

10 CHAIR TUCKER: Anybody else who would like to
11 speak before Mr. Hudson and Fay Singer?

12 Okay, Mr. Hudson.

13 MR. HUDSON: I just want to briefly address the
14 visual impact and the height of the groins again. Mr. Dummit
15 suggested that the height of the new groins would not be
16 significantly different than the height of the existing groins.
17 I don't have -- I haven't seen any renderings other than what's
18 in the EIR, but I'm looking at Figure 2.2, and that shows the
19 new rubble mound groins extending 12 feet above the water line.

20 Now there are a lot of people in the audience who
21 are familiar with Las Tunas Beach. I would like to ask if
22 there is anyone who has seen any existing groin that is twelve
23 feet higher than the water level?

24 (Audience responds, negatively)

25 MR. HUDSON: Has anyone ever seen a groin that is

1 nine feet higher than the water level?

2 (Audience responds, negatively)

3 MR. HUDSON: Is anyone with familiar with a groin
4 that is six feet higher than the water level?

5 (Audience responds, negatively)

6 MR. HUDSON: How about four feet higher than the
7 water level?

8 UNIDENTIFIED SPEAKER: Four foot, that's the
9 highest I've ever seen.

10 MR. HUDSON: How many of you -- is there more than
11 one groin that is over four feet high?

12 Okay, there are two people in the audience that
13 suggest that there may be more than one groin that is four feet
14 high. No one in the audience suggests there's any groin higher
15 than six feet. I think most of the groins are two to three
16 feet above the water level, if that, and it's a very, very
17 significant difference that we're talking about.

18 If you approve this, you will be approving a beach
19 that doesn't have any kind of analogue in Southern California
20 and throughout California in my experience. You will have
21 these eight very close, very immense, jetties -- it's incorrect
22 to call them groins -- jetting out into the ocean.

23 Why do we have to do that? Certainly the
24 scientists don't agree. The safety has been glossed over, and
25 it's suggested that there's no record of any reports. Why do

1 we have to set up a groin system like this? And in fact even
2 those other groin systems such as the wedge in Newport, I look
3 at that and I think it's notorious for being very dangerous.

4 This is going to have very unpredictable impacts
5 and it's a very serious decision. And I know that the
6 Commissioners want to respond to the danger of the existing
7 groins and want to come up with a solution to have those groins
8 removed, but that should not compel the Commission to make an
9 improper judgment on this Environmental Impact Report.

10 Thank you again.

11 CHAIR TUCKER: Thank you.

12 Fay Singer?

13 MS. SINGER: Thank you. I don't want to belabor
14 the point, but apropos of what Mr. Jeff Hudson just said, in
15 1986 the State Lands Commission vis-a-vis your engineers -- and
16 you must have the report somewhere in your files -- in 1986 you
17 came to evaluate the groins and I stood in the house watching
18 while a group of two engineers -- one of them I believe was Mr.
19 Hadley and the other was I believe a Mr. Morrison, but I'm not
20 sure -- dug potholes in front of our house for an entire day
21 hunting for the groin. The next day they came with a metal
22 detector, hunting for the groin, and I don't believe they ever
23 found it.

24 Now admittedly right now the sand level is down
25 and our groins are showing. We are a property owner since

1 1976. The last two to three years are the first times that we
2 have seen the groin that was on our property. When we bought
3 our groin there was at least ten feet of sand covering that
4 groin. There was no danger to the public -- I forgot the point
5 I was going to make.

6 The groins are -- a twelve foot high groin is
7 going to be considerably different from what we have now. Now
8 the original groins I doubt very much were over five feet wide.
9 The rubble mound groins, the information that we have is eight
10 rubble mound groins, 35 feet wide at the base, to a height of
11 12 feet, a truncated pyramid shape, with a width of 8 to 10
12 feet at the top.

13 Now if that bears any resemblance to what exists
14 now, which is 6 inches wide maximum and nowhere near 12 feet
15 high, I don't know what their base is, but I suspect that they
16 are going to be a much larger visual impediment than exists
17 now. For the groins that we have now, between upcoast and
18 downcoast, the maximum I have ever seen on our groin is maybe 3
19 feet.

20 Now I don't believe the other consideration of
21 liability. I don't believe that a groin 8 to 10 feet wide at
22 the base and 12 feet high is a lesser potential for injury than
23 a 6-inch-wide groin, and when they show -- very visible, I
24 think that rubble mound groins present a lot greater liability
25 than what exists now.

1 At the moment it is possible that you can get a
2 puncture wound in your foot if you don't see the groin if the
3 sand level is very high. At the moment they show so there is
4 not this potential. A rubble mound groin can cause, if I may
5 remind you, drownings. In Galveston there are many. I'd
6 rather have a puncture wound in my foot than be drowned, I
7 mean, I don't know about you.

8 There's more. The beach replenishment is required
9 according to the Army Corps of Engineers who met with a group
10 of homeowners approximately three years ago, and he said there
11 is a requirement for beach replenishment, according to their
12 studies, for every two years. Now in addition to the cost of
13 replenishing the sand, one must remember the traffic in
14 replenishing the sand.

15 Thank you very much. I don't know whether we have
16 been given incorrect information or insufficient information,
17 but the information that we have is rubble mound groins.

18 CHAIR TUCKER: Alan?

19 DEPUTY ATTORNEY GENERAL HAGER: I just wanted to
20 come back. I think my duty may be trying to mediate between
21 the two opposite ends on the visual impact of this.

22 If you will look at Figure 2.2, it will say that
23 the -- it will show you where -- you know, we're talking really
24 of the oceanward end, a plus-seven feet, mean lower low water.
25 That's the lowest the water will ever go. I mean, and a lot of

1 this will be buried anyway.

2 I didn't want you to get, in this case, too grave
3 a view that the visual impact is more intrusive than it really
4 is. I think the diagram, Figure 2 2 of the draft EIR, explains
5 it quite well.

6 CHAIR TUCKER: Could you also comment on this
7 issue of liability in terms of what has it cost the State so
8 far? Can you disclose that?

9 DEPUTY ATTORNEY GENERAL HAGER: I honestly don't
10 know. The point of it I think is maybe there have been minor
11 injuries, but there's a real possibility for a major injury, I
12 mean, what if somebody -- a surfer is impaled on this thing, a
13 young person, a great future ahead of him, becomes a
14 quadriplegic or something, nerve damage -- the potential is
15 great. And that could be millions of dollars.

16 CHAIR TUCKER: Okay, anybody else who would like
17 to say anything?

18 Yes, ma'am.

19 MS. HUDSON: My name is Sandra Hudson. My husband
20 bought our lot in 1945. I have pictures to show me sitting on
21 the sand with my children, never seeing a grain, but the sand
22 in front of our house is almost identical to the time we bought
23 our lot.

24 I also wonder why we're arguing about liability
25 when this could have been solved very easily. Why, if the

1 State wanted to get rid of the liability, with private
2 homeowners why don't they just cut and cover them and then
3 nobody would have to worry?

4 CHAIR TUCKER: Anybody else have anything?

5 DEPUTY COMMISSIONER MANNING: I appreciate all
6 your comments. The environmental documents on this are fairly
7 extensive, and having reviewed them and listened to the
8 comments, I think there are significant benefits from this
9 project in terms of enhanced public access, restoration of the
10 beach, homeowner protection, elimination of existing hazards --
11 which I think are significant, and the fact that the vast
12 majority of the homeowners are in favor of this project also
13 speaks to some extent of the impacts.

14 That is not to minimize the nuisance impact during
15 construction and other effects of the project on the dissenting
16 homeowners, and I understand that is a real concern, as well as
17 the fact that there are visual impacts from this project which
18 are different in nature than the current ones.

19 But on balance, having reviewed the EIR fully and
20 having listened attentatively to your comments and objections,
21 I am in favor of certifying the EIR and the lease.

22 DEPUTY COMMISSIONER SIANCELL: I would just like
23 to add, although I did not read the EIR report itself, I have
24 been briefed by staff on several occasions about this issue.

25 I feel that even after hearing the testimony from

1 those who are not willing to join the other homeowners who
2 decided to go forward with this, that there still appears to be
3 a compelling reason to proceed along the lines in which it's
4 being recommended by the staff, and at this point I would be
5 indicating that my support is for the staff recommendation.

6 CHAIR TUCKER: Okay, the staff recommendation is
7 that the EIR be certified as sufficient and that the lease be
8 granted for this purpose it's been described.

9 DEPUTY COMMISSIONER MANNING: I move the
10 recommendation.

11 CHAIR TUCKER: Mr. Manning moves.

12 DEPUTY COMMISSIONER STANCELL: Second.

13 CHAIR TUCKER: Dr. Stancell seconds. The votes
14 are two-to-nothing in favor of the staff recommendation.

15 Okay, Item 36

16 MR. WARREN: Lance Kiley, Division Chief of Land
17 Management and Conservation will present that item. Mr. Kiley?

18 MR. KILEY: Good afternoon, Commissioners. Item
19 36 is the result of about a year's worth of discussion between
20 myself, my staff, and some consultants. It asks the Commission
21 to approve a set of criteria for investment of money that's
22 been accumulated in the School Land Bank Fund.

23 At this point we're just asking for approval of
24 the criteria themselves. We would come back to the Commission
25 in the future for a specific process to invest the money,

1 using these criteria as a guide.

2 CHAIR TUCKER: The criteria that were developed,
3 this is the result of a contract that we have?

4 MR. KILEY: We contracted with Williams and
5 Kuberbeck to help us with this. This is the result of their
6 best advice and our best input.

7 CHAIR TUCKER: And that Stirs concurs?

8 MR. KILEY: Stirs is being a little bit coy about
9 this. I am not sure exactly what their concerns are. I did
10 give them an opportunity to get back to us with comments prior
11 to the time of the meeting, and they did not do that -- with
12 specific comments.

13 CHAIR TUCKER: Okay, well, I mean my own view
14 would be that we can proceed on this, but I would ask you to
15 notify the Commission if there's concerns expressed by Stirs so
16 we would know exactly where they're at on this, because I want
17 to make sure that they're involved.

18 MR. KILEY: Certainly -- as we would with the
19 process too.

20 DEPUTY COMMISSIONER MANNING: I move the item.

21 DEPUTY COMMISSIONER STANCELL: Second.

22 CHAIR TUCKER: Item is approved.

23 I have one other item, is there anything else
24 anybody else has?

25 I'd like to return just briefly to these dredging

1 issues, and I have had a chance to talk to Mr. Manning and to
2 Mr. Stancell, and it's our -- the feeling of all three
3 Commissioners is that any time that the Commission and
4 Commission staff is going to change fees in any way, that we
5 need to be notified.

6 And I think it should be taken up as a Commission
7 matter, because our experience in the past has always been
8 exactly what's happened on this, that is, the fee is raised and
9 immediately we hear all kinds of complaints and we end up
10 having a public hearing anyway.

11 So it seems to me the better process is let's
12 notice any fee raises that we're going to have, give the public
13 an opportunity to comment and be heard before the things take
14 effect, I think we'll avoid, you know, some of these after the
15 fact type situations that get a little awkward.

16 Okay, anything else?

17 MR. HIGHT: Item No. 40, Mr. Chairman.

18 CHAIR TUCKER: I didn't see that.

19 MR. HIGHT: Is authorization for litigation to
20 eject a trespasser at Lake Tahoe. The individual has been
21 notified over 30 times of his necessity to come under lease.
22 He has refused, and we seek the authorization for the ejection.

23 CHAIR TUCKER: Okay, and he is not a disabled
24 Vietnam veteran?

25 DEPUTY COMMISSIONER MANNING: Move the item.

1 DEPUTY COMMISSIONER STANCELL: Second.

2 CHAIR TUCKER: The item is approved and the
3 meeting is adjourned.

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5 (Whereupon the proceedings concluded.)

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CERTIFICATION

STATE OF CALIFORNIA

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ss.

COUNTY OF VENTURA

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I, Laura Gullette, hereby certify that the foregoing pages 1 through 66, inclusive, are a true and correct verbatim transcript of the proceedings as reported by me.

WITNESS my hand this 12 day of November, 1990, Ventura, California.



LAURA GULLETTE